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SUMMARY RECORD OF THE 1618th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 October 1997, at 10 a.m.

Chairperson: Ms. CHANET
later: Mr. EL SHAFEI

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Fourth periodic report of Senegal

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Fourth periodic report of Senegal (HRI/CORE/1/Add.51/Rev.1; CCPR/C/103/Add.1; CCPR/C/61/Q/SEN/3)

1. At the invitation of the Chairperson, Mr. Amadou Diop, Mrs. Maymouna Diop, Mr. Mandiogou Ndiaye, Mr. El Hadji Malick Sow, Mr. Ibou Ndiaye and Mr. Abdou Aziz Ndiaye (Senegal) took places at the Committee table.

2. Mr. Amadou DIOP (Senegal), introducing the fourth periodic report of Senegal (CCPR/C/103/Add.1), said it had been drafted in a spirit of continuity, respect for commitments and fidelity to the cause of human rights. Ever since its accession to international sovereignty, Senegal had based its existence as a State governed by law on democracy and observance of human rights. Its attachment to the fundamental rights defined in the Universal Declaration of Human Rights was solemnly proclaimed in the Constitution, and Senegal's first act after independence had been to advise the United Nations Secretary-General that it was bound by all the legal instruments on human rights to which the former colonial Power had been a party. Senegal had subsequently acceded to all the human rights instruments and had been in at the birth of the African Charter on Human and Peoples' Rights. It had agreed to submit itself periodically to criticism from the various treaty-monitoring bodies. Internally, Senegal had endeavoured to implement the recommendations made by the Human Rights Committee following its consideration of the third periodic report. At the regional and international levels, it was working to set up an African Court of Human Rights within the framework of the Organization of African Unity (OAU) and to establish an international criminal court.

3. Mr. Mandiogou NDIAYE (Senegal) said the Senegalese Constitution did not just refer to the Universal Declaration of Human Rights but in articles 6-20 systematically enumerated the fundamental rights it proclaimed. It condemned all forms of racial discrimination and guaranteed freedom of conscience, thought, religion and expression, and freedom of assembly and association, as well as equality before the law and justice and the independence of the judiciary. Implementation of article 2 of the Covenant was also ensured, and procedural law gave all injured parties the right and possibility of bringing their cases to court and of exploring a number of remedies. Any individual could also file a constitutional motion with the Constitutional Council when the settlement of a case brought before the Court of Cassation or the Council of State depended on a decision as to the conformity of a law with the Constitution. As far as remedies were concerned, the smooth functioning of the institution of the Mediator, which dated back to 1991, should be stressed. At the regional level, any individual claiming to have been the victim of a violation could take his case to the African Commission created under the African Charter of Human and Peoples' Rights and, at the international level, such international bodies as the Committee against Torture.

4. Some developments were quite recent and it had therefore not been possible to include them in the fourth periodic report.

5. First of all, as to protection of the family, which was the basic unit of Senegalese society, the Ministry of Women, Children and the Family, which had grown out of the Ministry of Social Development established in 1983, had prepared three reference documents: the National Action Plan for Women (1996-2005), the National Action Plan for Children (July 1991-2000) and the Action Plan for the Family, which was in progress. The implementation of those three plans should help to guide and coordinate the actions of the authorities, partners in development and non-governmental organizations (NGOs) involved with the family, women and children.

6. In pursuance of the recommendations of the Committee against Torture and the Human Rights Committee, the President of the Republic, on 23 April 1996, had sent the Prime Minister instructions, requesting him among other things to redefine the mandate of the Senegalese Human Rights Committee and provide it with the means to discharge that mandate, as well as to specify the responsibilities of the Interministerial Committee on Human Rights. He had also asked him to invite the Minister of Justice to prepare a bill criminalizing acts of torture in conformity with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and in the meantime to instruct Ministers to seek out and punish all violations of fundamental rights. Act No. 96-15 of 28 August 1996 had introduced the criminalization of acts of torture into the Penal Code, with a broad definition, in conformity with the Convention against Torture. Furthermore, on 30 April 1996 Senegal had made the declaration under articles 21 and 22 of the Convention against Torture, recognizing the competence of the Committee against Torture to receive and consider communications from a State party (art. 21) or individuals (art. 22).

7. In the light of General Assembly resolution 48/632, on national institutions for the promotion and protection of human rights, the Senegalese Government had deemed it necessary to strengthen the status of the Senegalese Human Rights Committee, established by decree in 1970; an act had thus been promulgated to govern the Committee, which was henceforth defined as an "independent" and pluralist institution, as the National Assembly, the Economic and Social Council of Senegal, the country's high courts, the bar, the university and NGOs, were represented on the Committee by eight full members. It should be stressed that the Administration representatives on the Committee served in an advisory capacity only. The Committee's powers had been broadened and specified, and it could now issue recommendations at the request of the Government or Parliament or at its own initiative; it was also in charge of promoting information on human rights. The members of the Committee were unremunerated, but the body had the resources necessary for it to function smoothly.

8. There was also the Interministerial Committee on Human Rights and International Humanitarian Law, answerable to the Prime Minister, which comprised representatives of all the relevant ministries. With a general mandate of coordinating Government action in the field of human rights, it drafted, submitted and followed up on Senegal's periodic reports to the international bodies, which first had to be submitted to the Senegalese Human

Rights Committee for consideration. The Interministerial Committee ensured that the competent Ministers acted on allegations of violations of fundamental rights brought to their attention and it coordinated their replies. It encouraged the teaching of human rights and international humanitarian law in schools, universities and vocational training institutions and made sure that applicable laws and regulations were adapted to human rights and international humanitarian law.

9. Mention should also be made of the establishment of the National Election Observation Body (ONEL) under the new Electoral Code, which had been rewritten in order to bolster the efficiency and impartiality of periodic elections. ONEL had been created following the adoption of Act No. 97/15 of 8 September 1997, and was accepted by virtually all the Senegalese political parties, of which there were 26. It was in charge of supervising and monitoring elections and referendums in order to ensure regularity and transparency and to guarantee both voters and candidates the free exercise of their rights. In that capacity, it was empowered to issue orders to the Administration and to propose penalties against anyone infringing the laws and regulations, and if necessary it could bring cases before the competent courts or even, in the case of violations of criminal law, lodge complaints with the Public Prosecutor. Its members enjoyed a form of immunity similar to parliamentary immunity, which guaranteed their independence.

10. Mr. El Shafei took the Chair.

11. The CHAIRPERSON thanked the Senegalese delegation and invited it to reply to the questions in part I of the list of issues to be taken up in connection with the report (CCPR/C/61/Q/SEN/3).

12. Mr. Amadou DIOP (Senegal), replying to the questions in paragraph 1, on the Casamance conflict and state of emergency, stated that the state of emergency had never so far been proclaimed on Senegalese territory, not even in Casamance. The Committee had asked what measures had been taken to preserve the cultural identity of those living in the southern part of the country; Casamance was one of the most ethnically integrated regions, as its residents came from a mosaic of ethnic groups, in balanced proportions, which was not the case for all regions of Senegal. The identity of all the ethnic groups in Casamance was expressed through cultural events, rites of initiation and the recognition of all local languages, all of which were actively encouraged by the State. As to economic measures, whenever the Senegalese State negotiated with its economic partners it endeavoured to encourage investment in the region, which suffered from being landlocked. Since Casamance had heavy rainfall, large agricultural estates had sprung up there, and it was particularly in that connection that an investment effort was being made, as well as in the construction of infrastructure, such as bridges. The Committee had also asked about the origins of the conflict in Casamance but, since an ethnic motivation could be ruled out with certainty, it was difficult to discern a clear cause. It could nonetheless be argued that the National Land Distribution Act of 1972, which had altered the traditional forms of land management, had created intense frustration within traditional Diola societies, to whom the land was sacred. The State was now seeking ways to encourage a return to equilibrium and was working to that end with the aid of several sectors of civil society.

13. He gave the following figures on Casamance from the latest census of 1988: the Diola numbered 270,660; the Wolof, 37,921; the Serer, 12,342; the Pulaars, 317,703; and the Mandingo, 172,378.

14. Mr. Malick SOW (Senegal), replying to the questions in paragraph 2 (Use of weapons by members of the police and security forces (art. 6)), assured the Committee that in 9 of the 10 regions of Senegal there had never been any cases involving the use of firearms by the police. In the tenth region, however, which was Casamance, the situation of armed conflict did in fact compel the security forces to use their weapons in self-defence. Recently, rebels had broken into a gendarmerie to release the persons being kept in custody, and the police had fired on them; the incident had caused injuries but no deaths. In any case, Senegal possessed comprehensive legal machinery for punishing police excesses. Legal proceedings were under way against some members of the security forces who had committed acts of torture. In addition to the provisions of the Penal Code, there were laws that specifically covered the army, governing the conditions under which the military could use firearms and providing for disciplinary measures and legal proceedings should the rules be contravened. In a circular dated 23 April 1996, the President of the Republic had asked the Prime Minister and the Minister of Justice to authorize the prosecution and punishment, to the fullest extent of the law, of all public officials guilty of the sort of conduct referred to in question 2 of the list of issues. On 26 April 1996 the Minister of Justice had sent a circular to that effect to the Public Prosecutor, regional prosecutors, deputy prosecutors, administrative and judicial authorities, Ministry of the Armed Forces and Ministry of the Interior.

15. Mr. Mandiogou NDIAYE (Senegal) said that the reference to "extrajudicial executions" in paragraph 3 of the list of issues (Extrajudicial executions, disappearances and torture (arts. 6 and 7)) generally applied to cases in which the security forces executed a detainee instead of turning him over to the judicial authorities. It could therefore be stated that there were no extrajudicial executions in Senegal. In Casamance, on the other hand, which was a troubled region, murders and assassinations were committed by the rebels. When the Senegalese army was in the field, it was accompanied by a special unit of the gendarmerie, called the military police prévôté, whose members had the rank of judicial police officers and were therefore empowered to conduct judicial investigations involving soldiers who had allegedly committed violations and civilians apprehended as the perpetrators of violations. Within the framework of its functions, the prévôté was under the direction and control of the Public Prosecutor, to whom it reported. Paragraph 48 of the report of Senegal was poorly drafted, as it did not make clear that when the army was called upon to respond to attacks by the MFDC rebels, or when it fell into an ambush, it reacted in full accordance with the law, in self-defence. Likewise, when the military police officers arrested someone who had committed a murder or an assassination, they were under an obligation to bring him before the authorities, and if the individual was found guilty, he was executed. It therefore bore repeating that there were no extrajudicial executions in Senegal.

16. Mr. Malick SOW (Senegal), providing the additional information requested in paragraph 4 of the list of issues, on liberty and security of the person, stated that there were no detainees kept incommunicado in Senegal. The

Senegalese Code of Criminal Procedure meticulously regulated the procedures involving persons under arrest. All arrests had to be made by a criminal police officer, no one could be held for more than 48 hours and all arrested persons had to be kept in premises specially adapted for that purpose, at a place stipulated by legislative and regulatory provisions. Once the person was arrested, the Public Prosecutor had to be informed of the fact in order to ensure that legal conditions of detention were observed. The person had to be advised of the reasons for his arrest. The application of those measures was subject to monitoring by the Public Prosecutor and, often, by the examining magistrate. The criminal police officers were required to keep a regularly updated register, initialled by the Public Prosecutor.

17. For certain violations custody was twice as long, ranging from two to four days and, under some conditions, up to eight days. Whenever the criminal police officer wished to extend the custody beyond 48 hours, he had to obtain the written authorization of the Public Prosecutor, who then set the modalities, conditions and length. When he deemed it necessary, the Public Prosecutor could have the detainee examined by a doctor at any time during the proceedings. At any time the person could also, either directly or through a lawyer, ask to be examined by a doctor. The Public Prosecutor was in all cases obliged to order such medical examinations, which had to be conducted at the detention centre.

18. The record of the custody had to indicate the date, time and reasons for detention, the length of questioning and of periods of rest and the date and time of release. Those items had to be initialled in the margin by the person concerned, and any refusal on his part had to be indicated in the record, on pain of nullity.

19. In the case of any irregularities in applying those measures, the Public Prosecutor had to inform the Chief Prosecutor, who brought the matter before the president of the criminal court, who in turn undertook an inquiry. If the legal provisions had been contravened, the criminal police officer could be liable to disciplinary measures or judicial proceedings.

20. Other than the exception indicated for cases in which it was the lawyer who asked that the person in police custody should be examined by a doctor of his choice, there was no provision for the lawyer to be present during the period in custody. The question was under study in Senegal, and his delegation thought it should be possible to fill that gap in Senegalese law.

21. The last question in paragraph 4 of the list of issues concerned the reduction of the length of pre-trial detention. In Senegal, liberty was the rule and detention the exception. That principle was enunciated in article 127 of the Code of Criminal Procedure, according to which, if the penalty involved was equal to or less than two years, the person could not be detained for more than five days. If the arrested person was lawfully domiciled in the judicial district, he could not be subjected to pre-trial detention unless he was a repeat offender. Under article 127 bis of the Code of Criminal Procedure, if the detention was in effect, the individual was placed under a committal order, by virtue of an official act of the examining magistrate, who advised the accused of the reasons for his arrest. The committal order could not extend for more than six months. If it appeared

necessary to keep the person in detention beyond that time, the judge had to renew the order through a reasoned decision and so notify the accused, who was entitled to file an appeal with the criminal court. If the judge had not taken a special reasoned decision at the expiration of the six-month period to extend the committal order, the accused was immediately released on bail, although the judge retained the power to issue a new committal order against him for the same acts. Other provisions allowed the accused to request bail during the six-month period. The judge could order bail as a matter of course and the Prosecutor could ask the judge to release the accused, also as a matter of course.

22. Other provisions called for guarantees: if an application for bail was submitted to the judge, the judge had to refer it to the Public Prosecutor within 48 hours, the Prosecutor had to respond within 10 days and, in line with the Prosecutor's submissions, the judge had to hand down a substantiated decision within five days. If he did not, the accused could apply to the criminal court, which had to rule within a month, failing which the accused was immediately granted bail. The right to apply to the criminal court could also be exercised by the Public Prosecutor if he found that the time-limits had not been observed. Once the criminal court had granted the accused bail, and quashed the decision by the examining magistrate, the latter could no longer place the detainee under a new committal order.

23. There were many provisions governing pre-trial detention. The relevant machinery functioned without interruption, and the criminal court scrupulously ensured that decisions were respected. The president of the criminal court had to check that the examining offices were running smoothly and make sure there was no delay in the procedures; cases involving detainees received special attention and appeared on a special list. All cases which had been registered with an examining office for more than six months were covered by a detailed report, which was updated every month until the proceedings were completed. Given that there was a whole series of provisions on detention, his delegation proposed to take up the subject again in detail at a later stage if the members of the Committee had specific questions to ask.

24. Regarding paragraph 5 of the list of issues, on conditions of detention, he said that, since the report had been drafted, a number of measures other than those indicated in paragraphs 140 and 141 had been taken to improve conditions of detention as well as the health and education of prisoners. Prison overcrowding was unfortunately a problem in Senegal, as elsewhere, despite efforts to combat it. The Government was planning to build a new prison and had just increased the daily allowance for detainees. The problem of overcrowding was particularly severe in the region of Cap-Vert and in Dakar, where there was a heavy caseload, but it was more or less within acceptable limits in the rest of the country.

25. Mrs. Maymouna DIOP (Senegal) replied to the questions raised in paragraph 6, on equality of the sexes. Regarding the proportion of women in political, economic, social and cultural life, she said that women accounted for 52 per cent of the Senegalese population and that there were 4,000 women's organizations belonging to the National Federation of Women's Organizations, which had more than 500,000 members throughout the 10 regions of Senegal. Of the 120 deputies in the National Assembly, 14 (or 11.7 per cent) were women.

In the next legislature (May 1998), however, that number would increase, as women had succeeded in having 25 per cent of electoral candidatures reserved for them. Women represented 12.4 per cent of judges and 14.4 per cent of lawyers. Of 33 ministers, however, only three were women, and they dealt with social issues. There were two women, including herself, out of the hundred or so career diplomats.

26. Women constituted 52 per cent of the population, but their distribution as members of the electorate varied from region to region: 51.83 per cent in the St-Louis region, 52 per cent in Ziguinchor, 45 per cent in Dakar and 44 per cent in Diourbel. Regarding decentralization and participatory development, 15.74 per cent of municipal councillors and 7.92 per cent of rural councillors were women. As to high-level posts in the public service, there were eight female national directors and, since the November 1996 elections, six women mayors, a sixfold increase over the post-independence elections of 1960. Her delegation could make the document containing those statistics available to the members of the Committee.

27. Paragraph 35 of the report referred to the thorny problem of polygamy. From the legal standpoint, the Senegalese Family Code had set up a system for choosing between monogamy and polygamy, either extended (four wives) or limited (two wives). That choice was final, although the couple could opt to change a previous situation of polygamy by making a new and more restrictive choice. The choice was maintained even after the dissolution of a marriage, for example through divorce. Despite legislative efforts to encourage the ultimate elimination of polygamy, it persisted due to cultural factors. The Family Code, a basic instrument, was intended to guarantee the right of persons, and in particular of women and children, to legal protection, without distinction as to religion or origins. The Code was undeniably a step forward, although admittedly some of its provisions warranted further reflection, for example the obligation of fidelity and its compatibility with the choice of polygamy with four wives, and the fact that it was polygamy and not monogamy that constituted the ordinary-law system.

28. As to the provisions on parental authority, marital authority and the prerogative of choosing the couple's place of residence (see paragraph 33 of the report), they were subject to protective measures which made it possible not to consider those provisions of the Family Code as completely discriminatory. In reply to the question on that subject in paragraph 6 of the list of issues, she said the Code was an instrument that was meant to take the country's sociocultural situation into account - in other words, it was an instrument of compromise between still-prevalent cultural values, religious freedoms and duties and the principles of secularism. It should not be forgotten that, while according to the civil registers about 30 per cent seemed to be choosing polygamy, in reality the percentage was closer to 60 per cent in rural areas.

29. Polygamy was currently the subject of a great deal of reflection in Senegal, from the lowest echelons of society to the highest levels of government. The Head of State had quite recently come out in favour of monogamy, which was a very courageous stance in a country that was 95 per cent Muslim and only 4 per cent Christian. A seminar of jurists had proposed that, if polygamy could not be wiped out entirely, it should be limited to two

wives. The National Action Plan for Senegalese Women, adopted following the Fourth World Conference on Women in September 1995, had advocated a number of steps to settle the problem of choice to ensure that choice was truly respected, as there were monogamous men who married several women "in parallel". The express declaration indicating the option chosen ought to be made at the time of marriage, but frequently the civil registrar did not ask for that declaration and, long after the marriage, the husband announced he was opting for polygamy. Discussion of the question would require reliable studies, with specific data and statistics on polygamy, in order to understand its impact.

30. With regard to equality of the sexes, steps had been taken to ensure access by women to certain managerial functions and the armed forces (see paragraph 37 of the report). Henceforth, Senegalese women had access to all levels, including that of high-ranking officer in the army, the gendarmerie, the police and the paramilitary sector, such as Customs and other services.

31. The last point raised in paragraph 6 of the list of issues concerned the literacy and school enrolment rates of women and girls. In 1995, 78 per cent of Senegalese women had never been to school, and it was currently estimated that the school population comprised 55 per cent of girls and 65 per cent of boys. With regard to literacy, two of every 10 women had received a basic education, meaning that they had learnt to read, write and count, usually in the national languages in the rural areas. To increase the school enrolment rate of girls and raise the educational level of women, an attempt was being made to develop a willingness on the part of families and the authorities to design and provide children with non-discriminatory education. The authorities had also helped to ensure pre-school education for 50 per cent of children aged two to six up to the year 2000, maintaining an equal participation rate for girls and boys. The decision to reduce the gap between girls and boys in secondary, technical and vocational and university education, where the proportion of girls was much lower, should also be highlighted. The goal of the National Plan of Action for Senegalese Women was to reduce female illiteracy by 10 per cent by the year 2000 through the United Nations Children's Fund (UNICEF) and other programmes. Funds had just been released for Casamance for the education of girls.

32. Before taking up the question of domestic violence, female genital mutilation and prohibition of abortion (para. 7 of the list of issues), she first discussed early marriage, which was also a form of violence against women. Article 300 of the Penal Code criminalized all marriages involving a person under age 13. Within the framework of the National Plan for Action for Senegalese Women, it had been proposed that an act should be drafted with regard to early marriages to bring Senegalese law and the Family Code into line with the relevant international conventions.

33. Among the forms of violence against women, sexual harassment had the same status in the Penal Code as endangering morals and assault. Rape was criminalized by article 320 of the Penal Code. Female circumcision, one of the most delicate problems at the present time, was not criminalized as such by any specific law. However, reference could be made in that regard to articles 294, 298 and 299 et seq. of the Penal Code, which dealt with assault and wilful injury. Under article 294, any individual who wilfully inflicted

injury or committed any other type of violence or assault would be punished with one to five years' imprisonment if the act resulted in illness or total disability. Female circumcision was considered to be a form of mutilation and, under the Penal Code, if the violence led to the death of the victim, amputation, mutilation or permanent inability to use a limb, the sentence was five to 10 years' imprisonment. If the guilty person was the father, the mother, another older relative or the child's guardian, he or she was punished by hard labour for life. It was important to know that those articles of the Code could be used to penalize female genital mutilation.

34. Also with regard to violence against women, a study conducted by the NGO ENDA Tiers Monde had shown that 24 per cent of Senegalese women were the victims of domestic violence. The legislature could do nothing about that, however, as the victims did not bring those acts to the attention of the judicial authorities, either out of fear or out of reticence. In Senegal, it was awareness-raising activities that could bring about a change, in both rural and urban settings. Women were increasingly aware of the need to see to their own defence and to bring their grievances to the courts, as some recent cases had demonstrated. Again according to ENDA Tiers Monde, as of 1992, 20 per cent of women had been circumcised. Currently, the phenomenon was declining markedly thanks to a campaign being carried out of working closely with the community, in particular by the Senegalese Committee to Combat Traditional Practices Affecting the Health of Women and Children.

35. A legal framework did exist on the rights of the child, which were covered by article 24 of the Covenant, since Senegal in 1990 had ratified the Convention on the Rights of the Child and had already ratified several conventions of the International Labour Organization (ILO) on the minimum working age in certain occupations. Furthermore, Parliament was expected to ratify ILO Convention No. 138 on the minimum working age before the end of its annual session, in November 1997. Nonetheless, child labour was already regulated by national law, which established 14 years as the minimum working age and 18 years as the minimum age for engaging in work that was dangerous or harmful to health. In addition, Senegal had adopted a National Plan of Action for Children as well as a National Plan of Action for Child-Workers, and had set up a very important programme for the support of street children, to which local groups contributed through their mayors and municipal counsellors, along with the NGOs represented in Senegal. Three approaches were favoured: strengthening legal protection, social mobilization and access to basic social services. There was a children's parliament, which met every year to discuss the situation of child labour, and the Head of State had ordered reliable studies to be carried out on actual practice, the long-term objective being the total abolition of child labour.

36. Ms. Chanet resumed the Chair.

37. The CHAIRPERSON thanked the Senegalese delegation for its replies to paragraphs 1-8 of the list of issues and invited the members of the Committee to ask further questions on part I of the list.

38. Mr. EL SHAFEI welcomed the continuing dialogue with the State party, which had always been frank and conducted at a high level. He was particularly grateful to the delegation for the clarifications provided in its

oral presentation, since in his opinion the report of Senegal did not contain sufficient concrete information on the reality of the human rights situation there.

39. His major concern had to do with the situation in Casamance and the real causes and origins of the problem, which had not been adequately explained. Was the conflict due to the presence of ethnic groups or particular tribes in the region, or to the land distribution system? What steps had been taken to bring an end to the human rights violations committed in the region, both by insurgents and by the police or security forces, and why had the efforts at pacification still not led anywhere?

40. His second concern arose from recent information, particularly from an organization called "La Rencontre africaine pour la défense des droits de l'homme" (African Movement for the Protection of Human Rights), which alleged a number of acts of torture, extrajudicial execution and detention without trial in Casamance, as well as other reports that the Senegalese Government was failing to carry out the impartial and in-depth investigations required to bring the perpetrators to justice, compensate the victims of violations and avoid a recurrence of such violations. Alarming reports also described arrests and imprisonment for political reasons, which was in total violation of the Covenant.

41. He wished to know whether the 1991 Amnesty Law was still in force, given recent developments in which members of the armed forces and police had been implicated, and whether concrete steps had been taken to conduct the necessary investigations of the reported cases of torture and extrajudicial executions.

42. Ms. EVATT thanked the Senegalese delegation for the additional information it had furnished in its oral presentation. In Senegal, anyone claiming to have been the victim of a violation of his rights could apply to the courts, but she wished to know whether, for example when the violation led to the victim's death, a third party, either a member of the family, an NGO or a human rights organization, could lodge a complaint on behalf of the deceased victim.

43. Torture was punished in Senegal, partly as a result of the Government's ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, she wondered about the definition of torture in the Senegalese Penal Code and whether its scope was as broad as that of article 1 of the Convention, under which "torture" meant "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person", a definition which was to be read in conjunction with article 7 of the Covenant.

44. As to the situation in Casamance, she shared Mr. El Shafei's concerns and was alarmed by the information provided not only by several NGOs but also by the Special Rapporteurs on extrajudicial executions, forced disappearances and torture of the Commission on Human Rights, which referred to numerous exactions committed by the country's security forces.

45. With regard to the situation of women in Senegal, she wondered whether the fact that polygamy was authorized by law meant that women were considered

in a manner incompatible with their fundamental right to dignity and equality. She asked whether the Senegalese authorities intended to eliminate the provisions of national civil law on the family and inheritance that were contrary to respect for women's rights. Was the Government taking steps to eradicate the practice of female genital mutilation, not only through education and information but also through legislation? What was the effect of the prohibition of abortion on the maternal mortality rate?

46. Ms. MEDINA QUIROGA associated herself with other members of the Committee in welcoming the Senegalese delegation and also endorsed the questions that had been raised. She remained concerned by two basic issues, those of detention in police custody (garde à vue) and the status of women. On the first point, she asked for specific information on how detention was actually conducted and the reasons why the law authorized the judge to decide whether to place an individual in detention. Was the length of detention determined by the sentence imposed for the offence of which the arrested person was suspected.

47. With regard to the status of women, she wondered whether the fact that the Family Code was mainly intended to protect women, as stated in paragraph 33 of the report, did not in fact mean that they were more often subjected to a form of authoritarianism, which would be contrary to the Covenant. The delegation had indicated that the unequal status of women was explained by the country's cultural traditions, as was the case in many other regions of the world, but it was for the Government to conduct a continuous campaign, not only to bring about a change in culture-related attitudes, but also to put new laws into place that would facilitate such a change. She also wished to have statistics on the maternal mortality rate in Senegal and to know to what extent that rate was linked to the prohibition of abortion. According to paragraph 12 of the core document (HRI/CORE/1/Add.51/Rev.1), the fertility rate was 6.8 children for all women; how did the family planning system work, and did it really meet the needs of the women themselves?

48. Mr. BUERGENTHAL associated himself with the questions raised previously by members of the Committee. He had been surprised by how general and theoretical the report was, and therefore thanked the delegation for having furnished additional information which for the most part should have appeared in the report itself.

49. According to paragraph 54 of the report, the length of detention could be extended beyond the initial period of 48 hours; he wondered to what extent the courts could contest such a decision taken by the prosecutor's office. Noting that, according to paragraph 55 of the report, the Code of Criminal Procedure provided for sanctions in the event of abuses committed by an officer of the criminal police during detention of a suspect, he asked who was in charge of investigating the allegations of such abuses: the police itself, or another official body? As to the situation in Casamance, considering that Senegal had not made the declaration under article 4 of the Covenant, he wondered under what provision the right to be tried promptly had apparently been suspended for persons arrested during the conflict.

50. Ms. GAITAN DE POMBO welcomed the fact that Senegal had set up a vast institutional, governmental and non-governmental network for the promotion and

protection of human rights. She wondered what specific action had been taken by the Senegalese Human Rights Committee, which was a part of that network, and what steps it had taken during the past year.

51. Regarding the conflict in Casamance, she would like further information on the forced displacements of populations in the subregion and on steps taken to advance the peace process.

52. Mr. SCHEININ thanked the delegation for its oral replies to the many questions raised. He requested further information on the concrete results of efforts undertaken within Senegal to eradicate the practice of female genital mutilation, and on the extent to which the State party had thereby fulfilled its obligations under articles 6, 7 and 9 of the Covenant. He also asked for additional information on the reasons for the high maternal mortality rate and its effect on the prohibition of abortion, noting in particular that abortion was considered an offence under Senegalese law, even in the case of rape or incest. The delegation should therefore specify whether current legislation directly concerned with women's health was not contrary to articles 6 and 7 of the Covenant.

53. Mr. BHAGWATI joined the previous speakers in welcoming the delegation and associated himself with the questions that had already been asked. He requested detailed information on the Higher Council of the Judiciary, referred to in paragraph 3 of the report, such as its composition, how its members were appointed and what its powers, attributions and status were. What were the provisions governing the nomination, length of term of office and revocation of members of the Constitutional Council, Council of State and Court of Cassation? According to paragraph 5 of the report, once international instruments had been ratified by Senegal, they took precedence over national legislation; had the provisions of the Covenant ever been directly invoked before the courts?

54. Following its consideration of the third periodic report of Senegal, the Committee had formulated several recommendations intended to remedy shortcomings in the exercise of human rights in the State party. The Committee had recommended that legislation should be amended so that no one who had been arrested could be kept in detention for four to eight days without the possibility of assistance from a lawyer or a doctor. There was nothing in the present report to indicate that steps had been taken to carry out that recommendation, nor was there any indication that any training on human rights was provided to members of the police forces, military personnel or security agents in charge of protecting the population. He wished to be informed why the Committee's previous recommendations had still not been followed up.

55. Mr. LALLAH thanked the delegation warmly for its frank and detailed replies to the initial questions put to it. Nonetheless, like Mr. El Shafei, he continued to wonder about the origins of the conflict in Casamance and in that context wished to know which ethnic groups supported the MFDC and whether they were the same groups that had previously supported the self-defence militia.

56. Furthermore, during its consideration of the third report, the Committee had drawn attention to article 47 of the Senegalese Constitution, which gave the authorities great latitude in the proclamation of a state of emergency, and it had wondered to what extent that article was compatible with article 4 of the Covenant. The delegation had not provided any explanation on that point and he asked it to provide the necessary details. He wondered why the Government asserted that there was no state of emergency in Casamance, given that many of the rights enshrined in the Covenant were not being respected there. No explanation had apparently been given as to why persons who had been arrested and placed in detention had no access to the services of a lawyer.

57. The CHAIRPERSON invited the delegation to reply to the additional questions raised by the members of the Committee on part I of the list of issues.

58. Mr. Amadou DIOP (Senegal) noted that members of the Committee had welcomed the fact that the delegation's oral presentation had gone well beyond what appeared in the report. The report did indeed take account of the Committee's conclusions upon consideration of the third periodic report (CCPR/C/64/Add.5), and consequently contained more information on practice, but it had been drafted almost a year earlier, and the delegation was therefore anxious to make a presentation which reflected the current situation in Senegal in order to complement the written report.

59. The question of the origin of the situation in Casamance was highly complex. First of all, as in any conflict involving elements of irredentism, the geographical dimension should be borne in mind. Firstly, Casamance was an enclave between Guinea-Bissau and the Gambia, which meant psychological blocks and some obstacles to the movement of persons, goods and capital. Secondly, and more generally, Africa was a vast continent in which the members of a particular ethnic group often lived on both sides of a border. In order to avoid the outbreak of conflicts, since the very beginning of decolonization the Organization of African Unity (OAU) had endorsed the principle of the inviolability of colonial borders. In order to avoid creating a situation of war, the Senegalese authorities were not exercising their right to pursue the Casamance rebels into neighbouring States. Another geographical dimension of the conflict that should be taken into account was the fact that southern Senegal was a thickly forested region well suited to guerrilla activity.

60. Land issues could not in themselves explain the conflict. It was true that the national law authorizing the expropriation of certain Diola lands on the grounds of public interest, and the land distribution system applied by some governors, had created frustration among the local populations, who had then reacted violently. However, there had been a comparable situation in the north, with the construction of a dam on the Senegal River, without it leading to an irredentist movement as in Casamance, even though the populations of the north had also reacted violently to the government measures.

61. The MFDC was demanding the independence of Casamance for historical reasons, claiming that the region had not been a part of Senegal since the fifteenth century. The President of Senegal had in turn said he would fight

on legal grounds and base himself on the testimony of the former colonial Power, which had prepared a report showing that Casamance had always been a part of the socio-geographic area of Senegal.

62. Other factors complicated the situation even more. In particular, at the present time there was a shift of conflicts to West Africa, and armed groups that had taken part in the fighting in Sierra Leone were often to be found in Casamance, stirring up the conflict. Drug and arms traffic was another factor that should be taken into consideration. Some individuals argued that people from the south were inadequately represented in the structures of the State, the administration and public institutions, leading to feelings of frustration.

63. He contrasted the practice of the MFDC, with its daily acts of destabilization and grave exactions against the population and property, with the policy of the authorities, who wanted to ensure respect for the law and refused to be dragged into a war. The authorities wished both to maintain law and order and to ensure the protection of people, and in particular respect for the right to life. There was a constant impetus for peace in Senegal, as evidenced by the existence of several institutions (Committee for Peace, Clerical Committee for the Maintenance of Peace in Casamance and so forth) and the holding of various events, such as the Day for Peace.

64. Generally speaking, the Government was anxious to preserve the social fabric, and its policy was to extend a hand to all Senegalese so that they could build the country together in peace. That was why it welcomed all international mediation activities and had agreed to make a neighbouring State, Guinea-Bissau, the guarantor of the Cacheu accord. In the same spirit, the Senegalese authorities had released a number of detained rebels.

65. Mr. Mandiogou NDIAYE (Senegal) said that the Senegalese themselves did not clearly understand the origins of the conflict in Casamance. He had been public prosecutor in Ziguinchor from 1983 to 1989, at the height of the crisis. Just before he had taken up his post, Abbé Diamacoune Senghor had hosted a programme on government radio explaining the origins of the Diola and the uniqueness of Casamance. That programme had started out by being very interesting, but had gradually proceeded to advocate separatism. In particular, its hosts cited a document supposedly signed by the colonial Power and Senegal on Independence Day, which called for Casamance to become independent at a certain point in time. What that time was, no one knew. Land issues, while not in themselves an explanation, had exacerbated tensions and encouraged the radicalization of persons whose land had been expropriated by legal decision and who felt themselves to have been the victims of discrimination. In December 1982, a crowd had surged into the streets of Ziguinchor, lowered the national flag and raised the white flag known as the flag of Casamance. The crowd had been composed essentially of illiterates who had been fooled by people insisting that they had only to raise the flag of Casamance and throw out the national authorities in order to obtain independence. The Government had then sized up the extent of the movement, and the authorities had arrested and tried several of its presumed leaders and instigators, including Abbé Diamacoune Senghor. While awaiting the court verdict, the authorities had been informed that a meeting of armed individuals was to be held; six gendarmes had been sent to the scene, where they had been

atrociously mutilated before being killed. It should be stated that those gendarmes had included Diola and members of other ethnic groups, as did the staff of all State institutions. With insufficient manpower to arrest the perpetrators of those acts, and pending the arrival of reinforcements from Dakar, the clashes had continued. The security forces had used firearms in responding to the rebel attack. There had been victims on both sides, and some people, fleeing repression, had gone into hiding; it was they who had created the hard core of the movement.

66. It was important to recognize that the Government had acted solely in order to protect the population. In that regard he recalled the many efforts deployed by the Senegalese authorities on behalf of peace in Casamance, which were set forth in paragraphs 116-133 of the report. The army had in no way violated the ceasefire agreements. However, those agreements had not had the expected effect, as the rebel movement had regrouped, new weapons had been brought into the region and the conflict was continuing. He nonetheless assured the Committee that the Government, which had always complied with all the demands made of it by those agreements, was sparing no effort to reach a solution.

67. In reply to the questions raised on extrajudicial executions, disappearances and torture, he again stressed the complexity of the situation in Casamance. In the first place, it was very difficult to dispatch commissions of inquiry to the area, due to security problems. Several Senegalese had recently been killed in Casamance. Foreigners had disappeared, and all the evidence pointed to the fact that they had been abducted and killed by members of the MFDC. The Senegalese themselves found it difficult to understand those acts. He wished to apprise the members of the Committee of his own personal viewpoint, which was that the conflict in Casamance was being fuelled by people profiting from the crisis. He cited in particular the case of an MFDC leader, who was wanted in Senegal but who had settled in France and opened a bank account enabling him to organize the financing of his movement's activities. In his own opinion, that person clearly had no interest in seeing the crisis in Casamance come to an end as he made a living out of it.

68. There were no cases of persons having been detained by the army. Soldiers who made arrests immediately turned the apprehended persons over to the police.

69. He recalled the objectives of the amnesty laws, which were set forth in paragraphs 124-127 of the report. The disappearances and murders in Casamance were entirely attributable to the MFDC, and not to the Government.

70. As to cases of detention without trial, persons detained were arrested not because of their ethnic origins or to restrict their freedom of opinion and expression but because they had committed criminal acts. If the authorities had carried out mass arrests, it was because the attacks had been carried out by crowds. He referred in that regard to paragraphs 105-109 of the report. All those factors showed that the legal procedures existed and were enforced. Although the pre-trial proceedings were protracted, given the large number of accused persons, there was no doubt as to their being concluded. In 1987, when torture had not yet constituted a separate offence

under Senegalese criminal law, some police officers had been sentenced for committing acts constituting torture. Their colleagues had organized a strike to support them and the Government had responded by dismissing the entire police force. That clearly illustrated the fact that torture did not go unpunished in Senegal.

71. The CHAIRPERSON invited the members of the Committee to continue their consideration of the fourth periodic report of Senegal at a subsequent meeting.

The meeting rose at 1 p.m.